

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

JOHN DOE,)
)
Plaintiff,)
)
v.) **Case No. 7:21cv378**
)
VIRGINIA POLYTECHNIC INSTITUTE)
AND STATE UNIVERSITY,)
)
Defendant.)

SECOND MOTION FOR EXTENSION

Defendant Virginia Polytechnic Institute and State University, by counsel, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, respectfully requests entry of an Order extending the time within which Defendant must file its Answer to plaintiff's Amended Complaint.

1. On February 23, 2023, the Court entered an Order granting in part and denying in part Defendant's motions to dismiss. ECF No. 60.
2. As such, the only remaining claims in this action are plaintiff's Title IX claims against Defendant based on plaintiff's allegations related to the NIH grant funding and retaliation. Id.
3. In the same Order, the Court granted plaintiff's counsel's motion to withdraw and directed plaintiff to apprise the Court of his substitute counsel, if any, on or before March 9, 2023. Id.
4. Defendant then requested, and the Court granted, an extension of time to file its Answer in light of plaintiff's attempts to find substitute counsel. ECF No. 63.



5. Plaintiff contacted the Court *ex parte* requesting two additional months to find substitute counsel, which the Court granted. ECF No. 64. Plaintiff must obtain new counsel by May 4, 2023, or advise the Court that he intends to proceed *pro se*. Id.

6. Plaintiff then sent an *ex parte* communication to the Court again, asking to be excused from disclosing his real name and contact information to the Court and its staff. ECF No. 65. The Court denied plaintiff's request and directed plaintiff to provide his contact information by March 9, 2023. Id.

7. Defendants are unaware as to whether plaintiff provided his real name and contact information to the Court as directed. See id. at *2 ("Finally, Doe is advised that failure to abide by the orders of this court may result in sanctions, up to and including dismissal of his lawsuit.").

8. In light of the extension of time afforded to plaintiff to find new counsel, Defendant requests additional time to file its Answer.

9. Rule 6(b) of the Federal Rules of Civil Procedure permits the Court to extend the time an act may or must be done if a request is made before the original time expires upon a finding of good cause. Fed. R. Civ. P. 6(b)(1)(A).

10. Defendant's motion is made in good faith and is not filed for the purpose of delay.

11. Defendant's motion is filed prior to the expiration of the deadline for Defendant to Answer.

12. No scheduling order has been entered, so a brief extension will not impact any deadlines in the case.

13. Accordingly, for the reasons set forth above, good cause exists for extending the time for Defendant to file its Answer.

14. A proposed Order is enclosed.

For the foregoing reasons, Defendant respectfully requests entry of an Order extending the time for Defendant to file its Answer to the Amended Complaint through and including May 19, 2023, and granting such further relief as the Court deems just and proper.

Respectfully submitted,

VIRGINIA POLYTECHNIC INSTITUTE AND
STATE UNIVERSITY

/s/

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*Counsel for Virginia Polytechnic Institute and
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CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically send notification of such filing to all counsel of record and have emailed a copy to plaintiff at the email address believed to be used by plaintiff.

/s/ Nathan H. Schnetzler
Of Counsel

